THE HONOURABLE SRI JUSTICE V. ESWARAIAH

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WRIT PETITION NO.27807 OF 2005

DATED: 28-12-2005

BETWEEN:

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Smt. Tejamma … Petitioner

And

The Collector, Medak District

And three others … Respondents

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

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WRIT PETITION NO.27807 OF 2005

ORDER:

The petitioner is a fair price shop dealer in respect of Borgi village, Kangti Mandal, Medak District. The 3rd respondent appointed her as permanent dealer vide proceedings No.B2/494/2000, dated 05-02-2000 for a period of five years and the authorization was given to that effect. While so, the 3rd respondent issued show cause notices dated 03-08-2004 and 08-12-2004 for which explanation has been filed on 24-08-2004. But without considering the explanation of the petitioner, the Revenue Divisional Officer cancelled the authorization by orders dated 14-02-2005.

Questioning the order of cancellation made by the Revenue Divisional Officer, dated 14-02-2005, petitioner filed an appeal before the 2nd respondent/Joint Collector, who is the Appellate Authority. The Appellate Authority after considering the grounds of appeal held that though the petitioner was not a dealer to distribute the kerosene, a charge has been framed as if the petitioner was collecting one rupee per litre more than the price prescribed by the Government, and as the other charges

are also not proved, set aside the orders of the 3rd respondent and accordingly, allowed the appeal by order dated 15-10-2005. As against the said order, one Sanjeeva Reddy and others who are residing in the same village have filed a revision before the Collector and the Revisional authority by its order dated 04-12-2005 granted exparte stay of the orders of the Revenue Divisional Officer, dated 15-10-2005 and allowed the revision on the same day, i.e. on 04-12-2005 remanding the matter to the Joint Collector for conducting enquiry and for passing final orders.

In that view of the matter, I am of the opinion that when the Appellate Authority considered and passed final orders and when a revision is filed before the Revisional Authority, it is not open for the Revisional authority to pass final orders without hearing the affecting party under Clause 20 of the A.P. State Public Distribution System Control Act, 2001. Any person aggrieved by the order of the appointing authority is entitled to file an appeal within 30 days and when any appeal is filed, the Appellate Authority may dispose of the appeal after giving reasonable opportunity for making the representations. Clause 6 of Annexure II of A.P. State Public Distribution System (Control) Orders, 2001 also prescribes that while disposing the appeal, the Appellate Authority shall give a reasonable opportunity for making the representations and shall pass orders thereon. But in the instant case, no reasonable opportunity has been given to the petitioner and without hearing the petitioner, granting stay and allowing the revision and remanding the matter to the Joint Collector by the impugned orders dated 04-12-2005 is illegal and unsustainable and against the principles of natural justice and also contrary to Clause 20 of the order and Cl.6 of the annexure 2(b) of the Control order.

Accordingly, the impugned orders of the District Collector, Medak District dated 04-12-2005 are hereby set aside and the first respondent is directed to hear the petitioner herein and as well as the revision petitioners and dispose of the same after giving reasonable opportunity. Till then, the petitioner shall be permitted to distribute the essential commodities.

Accordingly, the writ petition is allowed. No costs.

V. ESWARAIAH, J.

Dated: 28-12-2005

Note: Issue C.C.by two days.

B/o

RNS